

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIN WARREN SIZEMORE,

Defendant.

Case No. 6:21-cr-00138-RAW-1

SEVENTH MOTION IN LIMINE

Defendant Devin Sizemore, by and through his assigned counsel, and pursuant to Local Criminal Rule 12.1(E), moves this Court for an order precluding any reference by any party, court, or witness to Emily Sizemore or Jack Suter as a “victim.”

Although the government has not yet told defense that it intends to refer to Emily Sizemore or Jack Suter as a “victim,” Defendant files this motion early out of an abundance of caution.

Referring to Emily Sizemore or Jack Suter as a “victim” would undermine Mr. Sizemore’s presumption of innocence. *See Coffin v. United States*, 156 U.S. 432, 453 (1895) (“The principle that there is a presumption of innocence in favor of the accused is the undoubted law,

axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.”). As one court noted:

The word victim . . . is an unguarded expression, calculated . . . to create prejudice against the accused. It seems to assume that the deceased was wrongfully killed, when the very issue was as to the character of the killing. . . . When the deceased is referred to as “a victim,” the impression is naturally created that some unlawful power or dominion had been exerted over his person. . . . The Court should not, directly or indirectly, assume the guilt of the accused, nor employ equivocal phrases which may leave such an impression.

People v. Williams, 17 Cal. 142, 147 (1860).

Therefore, Mr. Sizemore respectfully requests that neither Emily Sizemore nor Jack Suter be referred to as a “victim” at any point during the proceedings in this case.

February 21, 2022

Respectfully submitted,

/s/

Lisa A. Peebles
Federal Public Defender
4 Clinton Square, 3rd Floor
Syracuse, NY 13202
(315) 701-0080
Lisa_Peebles@fd.org

Certificate of Electronic Filing and Service

This is to certify that on this 21st day of February, 2022, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to Rebecca Dunnan, AUSA, and to all counsel of record. To counsel's knowledge, there are no non-ECF registrants who are counsel in this case.

/s/

Lisa A. Peebles
Federal Public Defender